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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MO-HAN FONG, JUN LI, SOPHIE S. VRZIC, and
ALI IRAQI

Appeal 2009-0215
Application 10/799,963
Technology Center 2600

Decided: March 25, 2009

Before KENNETH W. HAIRSTON, JOSEPH F. RUGGIERO, and
ROBERT E. NAPPI, *Administrative Patent Judges*.

NAPPI, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 of the rejection of claims 1-25. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse the Examiner's rejection of these claims.

INVENTION

The invention is directed towards a method for communicating a broadcast message to a plurality of mobile stations in order to change data rates for transmissions over a wireless link. *See* Spec. 3:1-7. Claim 1 is representative of the invention and reproduced below:

1. A method for use in a wireless communications network, comprising:
communicating data with plural mobile stations over a wireless link; and
sending a broadcast message to the plural mobile stations, the broadcast message containing an indication for indicating to the plural mobile stations that the mobile stations are to change data rates for transmissions over a reverse wireless link.

REFERENCES

Eto	US 6,252,898 B1	Jun. 26, 2001
Lundby	US 7,068,683 B1	Jun. 27, 2006 (filed Oct. 25, 2000)
Chen	US 7,155,236 B2	Dec. 26, 2006 (filed Aug. 21, 2003)

REJECTIONS AT ISSUE

The Examiner rejected claims 1-12 and 20-25 under 35 U.S.C. § 103(a) as being unpatentable over Lundby in view of Chen.

The Examiner rejected claims 13, 14, and 17-19 under 35 U.S.C. § 103(a) as being unpatentable over Lundby in view of Eto.

The Examiner rejected claims 15 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Lundby in view of Eto and Chen.

ISSUES

Rejection of claims 1-12 and 20-25 under 35 U.S.C. § 103(a) as unpatentable over Lundby in view of Chen

Appellants argue on pages 4-9 of the Appeal Brief that the Examiner's rejection of claims 1-12 and 20-25 is in error. Appellants argue that neither Lundby nor Chen teaches broadcasting a message to mobile stations indicating a change in data transmission rates. App. Br. 5.

Thus, Appellants' contention presents us with the issue: have Appellants shown that the Examiner erred in finding that Lundby in view of Chen teaches broadcasting a message to mobile stations indicating that the mobile stations are to change data rates?

Rejection of claims 13, 14, and 17-19 under 35 U.S.C. § 103(a) as unpatentable over Lundby in view of Eto

Appellants argue on pages 10-12 of the Appeal Brief that the Examiner's rejection of claims 13, 14, and 17-19 is in error. Appellants argue that neither Lundby nor Eto teaches broadcasting a message to mobile stations indicating a change in data transmission rates. App. Br. 11.

Thus, with respect to claims 13, 14, and 17-19, Appellants' contention presents us with the issue: have Appellants shown that the Examiner erred in finding that Lundby in view of Eto teaches broadcasting a message to mobile stations indicating that the mobile stations are to change data rates?

*Rejection of claims 15 and 16 under 35 U.S.C. § 103(a) as unpatentable
over Lundby in view of Eto and Chen*

Appellants argue on page 12 of the Appeal Brief that the Examiner's rejection of claims 15 and 16 is in error. Appellants assert that claims 15 and 16 are allowable based on their dependency on independent claim 13. App. Br. 12.

Thus, Appellants' contention presents the same issue as presented with respect to claims 13.

FINDINGS OF FACT

Lundby

1. Lundby teaches a method for high speed packet data and low delay data transmissions in a wireless communication system. Col. 1, ll. 25-29.
2. In one embodiment, a "Broadcast-to-Pilot" ratio ("B/P" ratio) is provided to mobile users by a base station. Using this ratio, the mobile user calculates a normalized data rate which is a maximum achievable data rate. Col. 2, ll. 14-15, 19-22; col. 9, ll. 62-63, 66-67-col. 10, ll. 1-7.
3. The users send the normalized data rate to the base station to request a data rate and the base station decides the appropriate data rate for each user and transmits it to each mobile user. Col. 2, ll. 22-24; col. 10, ll. 7-12.
4. Lundby teaches broadcasting common packets of data to multiple users. The data transmitted may be a "traffic-to-pilot ratio" ("T/P

ratio”) which can be used to determine a data rate. Col. 7, ll. 30-32; col. 8, ll. 25-29, 53-56.

Chen

5. Chen teaches a wireless communication system and method to acknowledge scheduled and autonomous transmissions. Col. 1, ll. 17-20.
6. Chen discloses a mechanism that can be used to coordinate with mobile stations’ data transmissions on the reverse link. Col. 2, ll. 21-27.

PRINCIPLES OF LAW

Office personnel must rely on Appellants’ disclosure to properly determine the meaning of the terms used in the claims. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 980 (Fed. Cir. 1995) (en banc). “[I]nterpreting what is *meant* by a word *in* a claim is not to be confused with adding an extraneous limitation appearing in the specification, which is improper.” *In re Cruciferous Sprout Litig.*, 301 F.3d 1343, 1348 (Fed. Cir. 2002) (citations omitted) (internal quotation marks omitted).

ANALYSIS

Rejection of claims 1-12 and 20-25 under 35 U.S.C. § 103(a) as unpatentable over Lundby in view of Chen

Appellants’ arguments have persuaded us that the Examiner’s rejection of claims 1-12 and 20-25 is in error. Independent claim 1 recites “sending a broadcast message to the plural mobile stations, the broadcast

message containing an indication for indicating to the plural mobile stations that the mobile stations are to change data rates for transmissions over a reverse wireless link.” Thus, the scope of claim 1 includes that there is a message sent to several mobile stations which indicates that the data rate is to be changed. Independent claim 20 is directed to a mobile station which receives such a message. Thus, both independent claims 1 and 20 include a message that indicates that the data rate of the mobile station is to be changed. Appellants argue that neither Lundby nor Chen discloses a broadcast message indicating “that the mobile stations are to change data rates.” App. Br. 5. The Examiner finds that Lundby teaches broadcasting a message to the plural mobile stations indicating a data rate change and Chen teaches mobile stations transmitting on a reverse link. Ans. 4. We agree with Appellants.

Lundby teaches a method and apparatus for transmissions in a wireless communication system. FF 1. In one embodiment, a “Broadcast-to-Pilot” ratio (“B/P” ratio) is provided to mobile users by a base station. FF 2. Using this ratio, the mobile user calculates a normalized data rate which is a maximum achievable data rate. FF 2. The users send the normalized data rate to the base station to request a data rate. FF 3. The base station decides the appropriate data rate for each user and transmits it to each mobile user. FF 3. While Lundby teaches communicating with mobile stations to indicate a data rate, Lundby does not teach a broadcast message to indicate the data rate. As recognized by the Examiner, Lundby does teach broadcasting common packets of data to multiple users. FF 4. The data transmitted may be a “traffic-to-pilot ratio” (“T/P ratio”) which can be used to determine a data rate. FF 4. However, the data rate itself is not

transmitted and the individual data rates will still need to be negotiated with the base station, as discussed above. Therefore, Lundby does not teach the claimed limitations.

In addition, Chen teaches a wireless communication system and method to acknowledge scheduled and autonomous transmissions. FF 5. The Examiner finds that Chen discloses transmitting on a reverse link and uses this in combination with Lundby to meet the claimed limitations. Ans. 4. However, in light of the above discussion regarding Lundby, there is no need to address the portion of the claim taught by Chen. In addition, Appellants do not argue that Chen does not teach transmitting on a reverse link. Further, the Examiner does not find, nor do we find, that Chen teaches or suggests broadcasting a message to mobile stations indicating that the mobile stations are to change data rates. Thus, we do not find that the Examiner has shown that the combination of the references teaches all of the limitations of independent claims 1 and 20. Claims 2-12, and 21-25 all ultimately depend upon independent claims 1 or 25. Accordingly, we will not sustain the Examiner's rejection of claims 1-12, and 20-25.

Rejection of claims 13, 14, and 17-19 under 35 U.S.C. § 103(a) as unpatentable over Lundby in view of Eto

Appellants have persuaded us that the Examiner's rejection of claims 13, 14, and 17-19 is in error. Appellants separately argue claims 13, 14, and 17-19 using the same rationale directed to the Lundby reference discussed above with respect to claim 1 as described above. Independent claim 13 recites "sending a broadcast message to the plural mobile stations...indicating to the plural mobile stations that the mobile stations are

to change data rates for transmissions over a reverse wireless link.” Thus, the scope of claim 13 includes that there is a message sent to several mobile stations which indicates that the data rate is to be changed. As discussed above, we agree with Appellants’ argument that Lundby does not teach broadcasting a message to the mobile stations indicating that the mobile stations are to change data rates. Further, the Examiner does not find, nor do we find, that Eto teaches or suggests such a limitation. Thus, we do not find that the combination of the references teaches all of the limitations of independent claim 13. Claims 14 and 17-19 all depend upon claim 13. Accordingly, we will not sustain the Examiner’s rejection of claims 13, 14, and 17-19.

Rejection of claims 15 and 16 under 35 U.S.C. § 103(a) as unpatentable over Lundby in view of Eto and Chen

Appellants’ arguments have persuaded us of error in the Examiner’s rejection of claims 15 and 16. Appellants’ argument that the rejection of these claims is in error for the reasons discussed with respect to claim 13 is persuasive for the reasons discussed *supra* with respect to claim 13. Claims 15 and 16 ultimately depend upon claim 13. We do not find that the additional teachings of Chen make up for the deficiencies noted in the rejection of claim 13. Therefore, we will not sustain the Examiner’s rejection of claims 15 and 16.

CONCLUSIONS OF LAW

Appellants have shown that the Examiner erred in finding that Lundby in view of Chen teaches broadcasting a message to mobile stations indicating that the mobile stations are to change data rates.

Appellants have shown that the Examiner erred in finding that Lundby in view of Eto teaches broadcasting a message to mobile stations indicating that the mobile stations are to change data rates.

Appellants have shown that the Examiner erred in finding that Lundby in view of Eto and Chen teaches broadcasting a message to mobile stations indicating that the mobile stations are to change data rates.

SUMMARY

The Examiner's rejection of claims 1-25 is reversed.

REVERSED

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